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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,344	08/05/2003	Ronald P. Laliberty	043596.091	6750

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SMITH, GAMBRELL & RUSSELL, LLP
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA, GA 30309-3592

EXAMINER

WONG, STEVEN B

ART UNIT PAPER NUMBER

3711

DATE MAILED: 01/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/634,344	Applicant(s) LALIBERTY ET AL.	
	Examiner Steven Wong	Art Unit 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-22 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (5,704,858). Yang discloses a game ball construction comprising a plurality of layers of foamed material. Note column 1, lines 46 through column 2, line 12 teaching a core (11) having a first hardness, a first mantle layer (14) having a second hardness, a second mantle layer (13) having a third hardness and a cover (2). The first hardness has the greatest hardness, the third hardness has the second greatest hardness and the second hardness is the softest material.

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 9-11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (5,704,858). It would have been obvious to one of ordinary skill in the art to form the ball of Yang to the recited dimensions for the diameters, weights and thicknesses of the layers as the applicant has failed to demonstrate the criticality for the claimed dimensions by a new and unexpected result and it appears that the dimensions taught by Yang would accomplish similar purposes.
3. Claims 2, 4, 5, 7, 8 and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (5,704,858) in view of Talarico et al. (5,951,420). Yang lacks the teaching for the foamed material to be a urethane as claimed.

Art Unit: 3711

Talarico reveals a game ball comprising a central core (2), a first mantle (4) and a cover (8). Note column 2, lines 1-18 stating that the core and mantle are open and closed urethane compositions formed by mixing a polyol with isocyanate. Talarico also states that the different layers possess different hardnesses dependent upon the proportions of polyol and isocyanate used. It would have been obvious to one of ordinary skill in the art to form the layers of Yang from a polyurethane material as taught by Talarico in order to take advantage of that material's well known physical characteristics.

4. Claims 3, 12, 13 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang (5,704,858) in view of Talarico et al. (5,951,420) and Walker et al. (5,647,590). Regarding claim 3, Walker discloses a polyurethane foam formed from a mixture of 100 parts polyol and 33-40 parts isocyanate. It would have been obvious to one of ordinary skill in the art to form the core of Yang using a polyurethane formed from 100 parts polyol and 40 parts isocyanate in order to provide a core of a particular hardness.

Regarding claims 12 and 19, Walker teaches that the polyurethane foam would have a coefficient of restitution at 88 feet per second of less than 0.45.

Regarding claims 13, 20 and 21, Walker teaches a compression of 0.06-0.07 inches when subjected to a force of 10 lbs. The particular limitation for the compression being between 350 lbs. and 550 lbs. is considered to be obvious given the teachings of Walker. It would have been obvious to one of ordinary skill in the art to form the ball of Yang as modified by Talarico and Walker with a compression between 350 and 550 lbs. in order to produce a ball having a particular hardness.

Response to Arguments

5. Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection. The rejection of claims 1-22 now includes the references to Yang and Walker et al. Yang teaches a game ball having a plurality of layers of foamed material having various hardnesses. Walker teaches a game ball having a core formed polyurethane foam material with particular physical characteristics.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 571-272-4416. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Steven Wong
Primary Examiner
Art Unit 3711

SBW
January 14, 2005